

Service Date: September 9, 1987

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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IN THE MATTER of the Application)	
of MIDVALE WATER COMPANY for)	UTILITY DIVISION
Authority to Increase Rates and)	DOCKET NO. 87.5.24
Charges for Water Service in its)	ORDER NO. 5292
Eureka, Montana Service Area.)	

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INTERIM RATE ORDER

FINDINGS OF FACT

1. On May 22, 1987, Midvale Water Company (Applicant or MWC) filed an application with this Commission for authority to increase water rates and charges for its Eureka, Montana customers on a permanent basis by approximately 93.0%. This constitutes a revenue increase of approximately \$11,626.

2. On August 5, 1987, following a notice of public hearing, a hearing was held in the County Annex Building, Eureka, Montana. For the convenience of the consuming public there was also a night session, held in the Lincoln Electric Coop, Meeting Room, Eureka, Montana. The purpose of the public hearing was to consider the merits of the Applicant's proposed water rate adjustment.

3. At the close of the public hearing the Applicant made a motion for interim rate relief. The Applicant did not specify an amount of interim rate relief.

4. The major impetus behind the Applicant's filing of a rate increase request with this Commission is the Consent Decree entered into between the Applicant and the Montana Department of Health and Environmental Sciences (DHES). As part of MWC's settlement with DHES the Consent Decree states that the Applicant will start construction of certain improvements to the water system by August 15, 1987 and complete construction of these improvements by October 15, 1987. The water system improvements are needed for MWC's water system to meet the state health requirements of the DHES.

5. During the course of the public hearing a number of issues were brought to light that could significantly alter the Applicant's need for permanent rate relief to fund construction of the improvements required by the Consent Decree. During public testimony MWC consumers indicated that the City of Eureka had been approached with a request that the MWC service area be annexed by the City. The consumers also indicated that the City expressed a sincere interest in annexing the area.

6. Annexation of the MWC service area by the City would have no effect on MWC's filing with this Commission. A privately owned water utility can operate within the corporate limits of a municipality. Testimony was given at the public hearing however,

that the City of Eureka may be willing to purchase MWC's existing system, if the proposed annexation becomes a reality. If the water system were purchased by the City the system would still require improvements to meet DHES health standards. The public witnesses testified that if the water system is acquired by the City the capital improvements outlined in MWC's application would not conform to the construction standards of the City of Eureka. The public witnesses indicated that the construction standards of the City would exceed the minimum construction standards imposed on MWC by the DHES.

7. Given the fact that the public has expressed interest in Applicant's service area being annexed into the corporate limits of the City and the indication that the City is interested in acquiring the system if annexation occurs, the Commission finds that a permanent rate increase to fund the entire construction program would not result in just and reasonable rates at this time. The Commission will grant interim rates for work essential to insure a safe supply of water to the Applicant's consumers. The information available to the Commission suggests that the improvements requiring immediate action, to insure a safe supply of water, are those outlined in the Applicant's cost estimate as "Upper Pumphouse" improvements. The Applicant has estimated that these improvements will cost approximately \$7,962 (includes a 25% adder for engineering contingency and miscellaneous).

8. Applicant has incurred engineering expenses, to date, of approximately \$6,000 to \$7,000 that are due and owing its consulting engineer. This expense will also be included in the

grant of interim rate relief since the expenses are related to the capital improvement program under consideration in this docket.

9. Based on the preceding Findings of Fact the Commission finds that MWC should proceed with approximately \$8,000 of construction work in addition to the a \$7,000 expense incurred to date. MWC will be obtaining the funds for construction of the authorized improvements and payment of engineering fees from loan proceeds administered by the Montana Department of Natural Resources and Conservation (DNRC). The interim rate relief authorized in this order should be equal to the Applicant's cost of servicing its \$15,000 debt obligation with DNRC. The Applicant will provide the Commission with a copy of DNRC's calculation of annual debt cost on the \$15,000 loan amount authorized in this order and this amount shall become the annual revenue increase authorized in this order.

10. The Applicant shall generate the increased annual revenue authorized in this order by increasing all rates and charges on the basis of a uniform percentage.

11. The Commission is issuing an interim rate order to allow the interested parties adequate time to resolve the possibility of annexation and possible purchase of MWC's system by the City of Eureka. If by November 30, 1987, the Commission has not received written communication indicating; 1) the voters within the MWC service area have voted to approve annexation by the City, 2) the City is willing to annex the area, 3) the City is willing to enter into negotiations with MWC regarding purchase of the system and 4) a minute entry or resolution from the City indicating that it is

willing to make necessary improvements to the water system, if and when a purchase of the system is completed, the Commission will proceed and issue a final order based on the evidence presented in this docket.

12. If by November 30, 1987, the Commission receives written notification that the four requirements in Finding of Fact No. 11 have been satisfied the Commission will delay the issuance of a final order until after January 15, 1988. Delaying issuance of a final order until that date will allow the parties an opportunity to complete negotiations on a purchase agreement. If by January 15, 1988 a purchase agreement has not been consummated the Commission will prepare a final order unless both parties, MWC and the City, file a request for extension that indicates progress is being made on the purchase agreement.

CONCLUSIONS OF LAW

1. Midvale Water Company is a public utility furnishing water service to customers in the Eureka, Montana area, and is subject to the supervision, regulation and control of this Commission pursuant to Section 69-3-102, MCA.

2. Section 69-3-304, MCA, provides in part, "The Commission may in its discretion, temporarily approve increases pending a hearing or final decision."

3. The Commission concludes that the grant of an interim rate increase is just, reasonable and within the discretion granted by Section 69-3-304, MCA.

4. The increase granted herein is subject to rebate should the final order in this Docket determine that a lesser increase is warranted.

ORDER

THEREFORE THE MONTANA PUBLIC SERVICE COMMISSION ORDERS THAT:

1. Midvale Water Company is hereby granted authority to implement on an interim basis increased rates for its Eureka, Montana customers. The amount of the interim rate increase shall be equal to the annual cost of debt service on the loan as calculated by the Department of Natural Resources and Conservation.

2. The increased revenue authorized herein shall be generated by increasing all rates and charges on the basis of a uniform percentage.

3. The interim rate relief granted in this Order is to be effective upon Commission approval, which will occur once the Applicant has complied with the requirements of this order.

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DONE IN OPEN SESSION THIS 8th day of September, 1987 by a vote
of 5 - 0 at Helena, Montana.

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BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

CLYDE JARVIS, Chairman

HOWARD L. ELLIS, Commissioner

TOM MONAHAN, Commissioner

DANNY OBERG, Commissioner

JOHN B. DRISCOLL, Commissioner

ATTEST:

Ann Purcell
Acting Secretary

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(SEAL)

NOTE: Any interested party may request the Commission to reconsider this decision. A motion to reconsider must be filed within ten (10) days. See 38.2.4806, ARM.